

**EXHIBITS TO DECLARATION OF SONG DIHUANG**

**EXHIBIT 4**

中华人民共和国国务院令  
(第 378 号)

《企业国有资产监督管理暂行条例》已经 2003 年 5 月 13 日国务院第 8 次常务会议讨论通过，现予公布，自公布之日起施行。

总理 温家宝  
二 00 三年五月二十七日

企业国有资产监督管理暂行条例

第一章 总则

**第一条** 为建立适应社会主义市场经济需要的国有资产监督管理体制，进一步搞好国有企业，推动国有经济布局和结构的战略性调整，发展壮大国有经济，实现国有资产保值增值，制定本条例。

**第二条** 国有及国有控股企业、国有参股企业中的国有资产的监督管理，适用本条例。

金融机构中的国有资产的监督管理，不适用本条例。

**第三条** 本条例所称企业国有资产，是指国家对企业各种形式的投资和投资所形成的权益，以及依法认定为国家所有的其他权益。

**第四条** 企业国有资产属于国家所有。国家实行由国务院和地方人民政府分别代表国家履行出资人职责，享有所有者权益，权利、义务和责任相统一，管资产和管人、管事相结合的国有资产管理体制。

**第五条** 国务院代表国家对关系国民经济命脉和国家安全的大型国有及国有控股、国有参股企业，重要基础设施和重要自然资源等领域的国有及国有控股、国有参股企业，履行出资人职责。国务院履行出资人职责的企业，由国务院确定、公布。

省、自治区、直辖市人民政府和设区的市、自治州级人民政府分别代表国家对由国务院履行出资人职责以外的国有及国有控股、国有参股企业，履行出资人职责。其中，省、自治区、直辖市人民政府履行出资人职责的国有及国有控股、国有参股企业，由省、自治区、直辖市人民政府确定、公布，并报国务院国有资产监督管理机构备案；其他由设区的市、自治州级人民政府履行出资人职责的国有及国有控股、国有参股企业，由设区的市、自治州级人民政府确定、公布，并报省、自治区、直辖市人民政府国有资产监督管理机构备案。

国务院，省、自治区、直辖市人民政府，设区的市、自治州级人民政府履行出资人职责的企业，以下统称所出资企业。

**第六条** 国务院，省、自治区、直辖市人民政府，设区的市、自治州级人民政府，分别设立国有资产监督管理机构。国有资产监督管理机构根据授权，依法履行出资人职责，依法对企业国有资产进行监督管理。

企业国有资产较少的设区的市、自治州，经省、自治区、直辖市人民政府批准，可以单独设立国有资产监督管理机构。

**第七条** 各级人民政府应当严格执行国有资产管理法律、法规，坚持政府的社会公共管理职能与国有资产出资人职能分开，坚持政企分开，实行所有权与经营权分离。

国有资产监督管理机构不行使政府的社会公共管理职能，政府其他机构、部门不履行企业国有资产出资人职责。

**第八条** 国有资产监督管理机构应当依照本条例和其他有关法律、行政法规的规定，建立健全内部监督制度，严格执行法律、行政法规。

**第九条** 发生战争、严重自然灾害或者其他重大、紧急情况时，国家可以依法统一调用、处置企业国有资产。

**第十条** 所出资企业及其投资设立的企业，享有有关法律、行政法规规定的企业经营自主权。

国有资产监督管理机构应当支持企业依法自主经营，除履行出资人职责以外，不得干预企业的生产经营活动。

**第十一条** 所出资企业应当努力提高经济效益，对其经营管理的企业国有资产承担保值增值责任。

所出资企业应当接受国有资产监督管理机构依法实施的监督管理，不得损害企业国有资产所有者和其他出资人的合法权益。

## **第二章 国有资产监督管理机构**

**第十二条** 国务院国有资产监督管理机构是代表国务院履行出资人职责、负责监督管理企业国有资产的直属特设机构。

省、自治区、直辖市人民政府国有资产监督管理机构，设区的市、自治州级人民政府国

国有资产监督管理机构是代表本级政府履行出资人职责、负责监督管理企业国有资产的直属特设机构。

上级政府国有资产监督管理机构依法对下级政府的国有资产监督管理工作进行指导和监督。

**第十三条** 国有资产监督管理机构的主要职责是：

（一）依照《中华人民共和国公司法》等法律、法规，对所出资企业履行出资人职责，维护所有者权益；

（二）指导推进国有及国有控股企业的改革和重组；

（三）依照规定向所出资企业派出监事会；

（四）依照法定程序对所出资企业的企业负责人进行任免、考核，并根据考核结果对其进行奖惩；

（五）通过统计、稽核等方式对企业国有资产的保值增值情况进行监管；

（六）履行出资人的其他职责和承办本级政府交办的其他事项。

国务院国有资产监督管理机构除前款规定职责外，可以制定企业国有资产监督管理的规章、制度。

**第十四条** 国有资产监督管理机构的主要义务是：

（一）推进国有资产合理流动和优化配置，推动国有经济布局和调整；

（二）保持和提高关系国民经济命脉和国家安全领域国有经济的控制力和竞争力，提高国有经济的整体素质；

（三）探索有效的企业国有资产经营体制和方式，加强企业国有资产监督管理工作，促进企业国有资产保值增值，防止企业国有资产流失；

（四）指导和促进国有及国有控股企业建立现代企业制度，完善法人治理结构，推进管理现代化；

（五）尊重、维护国有及国有控股企业经营自主权，依法维护企业合法权益，促进企业依法经营管理，增强企业竞争力；

（六）指导和协调解决国有及国有控股企业改革与发展中的困难和问题。

**第十五条** 国有资产监督管理机构应当向本级政府报告企业国有资产监督管理工作、国有资产保值增值状况和其他重大事项。

### 第三章 企业负责人管理

**第十六条** 国有资产监督管理机构应当建立健全适应现代企业制度要求的企业负责人的选用机制和激励约束机制。

**第十七条** 国有资产监督管理机构依照有关规定，任免或者建议任免所出资企业的企业负责人：

（一）任免国有独资企业的总经理、副总经理、总会计师及其他企业负责人；

（二）任免国有独资公司的董事长、副董事长、董事，并向其提出总经理、副总经理、总会计师等的任免建议；

（三）依照公司章程，提出向国有控股的公司派出的董事、监事人选，推荐国有控股的公司的董事长、副董事长和监事会主席人选，并向其提出总经理、副总经理、总会计师人选的建议；

（四）依照公司章程，提出向国有参股的公司派出的董事、监事人选。

国务院，省、自治区、直辖市人民政府，设区的市、自治州级人民政府，对所出资企业的企业负责人的任免另有规定的，按照有关规定执行。

**第十八条** 国有资产监督管理机构应当建立企业负责人经营业绩考核制度，与其任命的企业负责人签订业绩合同，根据业绩合同对企业负责人进行年度考核和任期考核。

**第十九条** 国有资产监督管理机构应当依照有关规定，确定所出资企业中的国有独资企业、国有独资公司的企业负责人的薪酬；依据考核结果，决定其向所出资企业派出的企业负责人的奖惩。

### 第四章 企业重大事项管理

**第二十条** 国有资产监督管理机构负责指导国有及国有控股企业建立现代企业制度，审核批准其所出资企业中的国有独资企业、国有独资公司的重组、股份制改造方案和所出资企业中的国有独资公司的章程。

**第二十一条** 国有资产监督管理机构依照法定程序决定其所出资企业中的国有独资企业、国有独资公司的分立、合并、破产、解散、增减资本、发行公司债券等重大事项。其中，重要的国有独资企业、国有独资公司分立、合并、破产、解散的，应当由国有资产监督管理

机构审核后，报本级人民政府批准。

国有资产监督管理机构依照法定程序审核、决定国防科技工业领域其所出资企业中的国有独资企业、国有独资公司的有关重大事项时，按照国家有关法律、规定执行。

**第二十二条** 国有资产监督管理机构依照公司法的规定，派出股东代表、董事，参加国有控股的公司、国有参股的公司的股东会、董事会。

国有控股的公司、国有参股的公司的股东会、董事会决定公司的分立、合并、破产、解散、增减资本、发行公司债券、任免企业负责人等重大事项时，国有资产监督管理机构派出的股东代表、董事，应当按照国有资产监督管理机构的指示发表意见、行使表决权。

国有资产监督管理机构派出的股东代表、董事，应当将其履行职责的有关情况及时向国有资产监督管理机构报告。

**第二十三条** 国有资产监督管理机构决定其所出资企业的国有股权转让。其中，转让全部国有股权或者转让部分国有股权致使国家不再拥有控股地位的，报本级人民政府批准。

**第二十四条** 所出资企业投资设立的重要子企业的重大事项，需由所出资企业报国有资产监督管理机构批准的，管理办法由国务院国有资产监督管理机构另行制定，报国务院批准。

**第二十五条** 国有资产监督管理机构依照国家有关规定组织协调所出资企业中的国有独资企业、国有独资公司的兼并破产工作，并配合有关部门做好企业下岗职工安置等工作。

**第二十六条** 国有资产监督管理机构依照国家有关规定拟订所出资企业收入分配制度改革指导意见，调控所出资企业工资分配的总体水平。

**第二十七条** 所出资企业中的国有独资企业、国有独资公司经国务院批准，可以作为国务院规定的投资公司、控股公司，享有公司法第十二条规定的权利；可以作为国家授权投资的机构，享有公司法第二十条规定的权利。

**第二十八条** 国有资产监督管理机构可以对所出资企业中具备条件的国有独资企业、国有独资公司进行国有资产授权经营。

被授权的国有独资企业、国有独资公司对其全资、控股、参股企业中国家投资形成的国有资产依法进行经营、管理和监督。

**第二十九条** 被授权的国有独资企业、国有独资公司应当建立和完善规范的现代企业制度，并承担企业国有资产的保值增值责任。

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## 第五章 企业国有资产管理

第三十条 国有资产监督管理机构依照国家有关规定，负责企业国有资产的产权界定、产权登记、资产评估监管、清产核资、资产统计、综合评价等基础管理工作。

国有资产监督管理机构协调其所出资企业之间的企业国有资产产权纠纷。

第三十一条 国有资产监督管理机构应当建立企业国有资产产权交易监督管理制度，加强企业国有资产产权交易的监督管理，促进企业国有资产的合理流动，防止企业国有资产流失。

第三十二条 国有资产监督管理机构对其所出资企业的企业国有资产收益依法履行出资人职责；对其所出资企业的重大投融资规划、发展战略和规划，依照国家发展规划和产业政策履行出资人职责。

第三十三条 所出资企业中的国有独资企业、国有独资公司的重大资产处置，需由国有资产监督管理机构批准的，依照有关规定执行。

## 第六章 企业国有资产监督

第三十四条 国务院国有资产监督管理机构代表国务院向其所出资企业中的国有独资企业、国有独资公司派出监事会。监事会的组成、职权、行为规范等，依照《国有企业监事会暂行条例》的规定执行。

地方人民政府国有资产监督管理机构代表本级人民政府向其所出资企业中的国有独资企业、国有独资公司派出监事会，参照《国有企业监事会暂行条例》的规定执行。

第三十五条 国有资产监督管理机构依法对所出资企业财务进行监督，建立和完善国有资产保值增值指标体系，维护国有资产出资人的权益。

第三十六条 国有及国有控股企业应当加强内部监督和风险控制，依照国家有关规定建立健全财务、审计、企业法律顾问和职工民主监督等制度。

第三十七条 所出资企业中的国有独资企业、国有独资公司应当按照规定定期向国有资产监督管理机构报告财务状况、生产经营状况和国有资产保值增值状况。

## 第七章 法律责任

**第三十八条** 国有资产监督管理机构不按规定任免或者建议任免所出资企业的企业负责人，或者违法干预所出资企业的生产经营活动，侵犯其合法权益，造成企业国有资产损失或者其他严重后果的，对直接负责的主管人员和其他直接责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第三十九条** 所出资企业中的国有独资企业、国有独资公司未按照规定向国有资产监督管理机构报告财务状况、生产经营状况和国有资产保值增值状况的，予以警告；情节严重的，对直接负责的主管人员和其他直接责任人员依法给予纪律处分。

**第四十条** 国有及国有控股企业的企业负责人滥用职权、玩忽职守，造成企业国有资产损失的，应负赔偿责任，并对其依法给予纪律处分；构成犯罪的，依法追究刑事责任。

**第四十一条** 对企业国有资产损失负有责任受到撤职以上纪律处分的国有及国有控股企业的企业负责人，5年内不得担任任何国有及国有控股企业的企业负责人；造成企业国有资产重大损失或者被判处刑罚的，终身不得担任任何国有及国有控股企业的企业负责人。

## 第八章 附则

**第四十二条** 国有及国有控股企业、国有参股企业的组织形式、组织机构、权利和义务等，依照《中华人民共和国公司法》等法律、行政法规和本条例的规定执行。

**第四十三条** 国有及国有控股企业、国有参股企业中中国共产党基层党组织建设、社会主义精神文明建设和党风廉政建设，依照《中国共产党章程》和有关规定执行。

国有及国有控股企业、国有参股企业中工会组织依照《中华人民共和国工会法》和《中国工会章程》的有关规定执行。

**第四十四条** 国务院国有资产监督管理机构，省、自治区、直辖市人民政府可以依据本条例制定实施办法。

**第四十五条** 本条例施行前制定的有关企业国有资产监督管理的行政法规与本条例不一致的，依照本条例的规定执行。

**第四十六条** 政企尚未分开的单位，应当按照国务院的规定，加快改革，实现政企分开。政企分开后的企业，由国有资产监督管理机构依法履行出资人职责，依法对企业国有资产进行监督管理。

**第四十七条** 本条例自公布之日起施行。

Interim Measures for the Supervision and Administration of State-Owned  
Assets of the Enterprises

Promulgation date: 05-27-2003  
Effective date: 05-27-2003  
Department: STATE COUNCIL OF CHINA  
Subject: COMPANIES & ENTERPRISES

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Order of the State Council of the People's Republic of China  
(No.378)

The Interim Measures for the Supervision and Administration of State-Owned Assets of the Enterprises, which were adopted at the 8th executive meeting of the State Council on May 13, 2003, are hereby promulgated and shall be implemented as of the day of promulgation.

Wen Jiabao, the Premier  
May 27, 2003

Interim Measures for the Supervision and Administration of State-Owned Assets of the Enterprises

Chapter 1 General Provisions

Article 1 The present Measures are enacted in order to establish a supervision and administration system of state-owned assets that meets the demand of the socialist market economy, to further activate the state-owned enterprises, to promote the strategic adjustment of the layout and structure of the state-owned economy, to develop and strengthen the state-owned economy, and to try to maintain and increase the value of the state-owned assets.

Article 2 The present Regulations shall apply to the supervision and administration of the state-owned assets in the state-owned, state controlling, and state holding enterprises.  
And the present Regulations shall not apply to the supervision and administration of the state-owned assets in financial institutions.

Article 3 State-owned assets in enterprises as mentioned in the present Regulations refer to the state's various form of investment and the rights and interests formed thereby, as well as other rights and interests recognized as being state-owned according to law.

Article 4 The state-owned assets in enterprises belong to the state. The state shall apply the administration system of state-owned assets in which the State Council and the local people's

governments shall, on behalf of the state, perform the contributor's duties and enjoy the owner's rights and interests, the rights shall be associated with the obligations and responsibilities, and the administration of assets shall be combined with the administration of personnel and affairs.

Article 5 The State Council shall, on behalf of the state, perform the contributor's duties for the large state-owned, state controlling, and state holding enterprises that have bearings on the national economic lifeline and the state security, and the state-owned, state controlling, and state holding enterprises in the fields of important infrastructure and important natural resources etc. The State Council shall determine and promulgate the list of the enterprises for which the State Council will perform the contributor's duties.

The people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and the people's governments at the level of districted city and autonomous prefecture shall, on behalf of the state, perform the contributor's duties for the state-owned, state controlling, and state holding enterprises other than those for which the State Council performs the contributor's duties. Among which, the state-owned, state controlling, and state holding enterprises that for which the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government perform the contributor's duties shall be determined and promulgated by the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and shall be put on record with the state-owned assets supervision and administration body under the State Council; other state-owned, state controlling, and state holding enterprises for which the people's governments at the level of districted city or autonomous prefecture perform the contributor's duties shall be determined and promulgated by the people's governments at the level of districted city or autonomous prefecture, and shall be put on record with the state-owned assets supervision and administration bodies of the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government.

The enterprises for which the State Council, the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and the people's governments at the level of districted city or autonomous prefecture perform the contributor's duties shall be generally called as the contributed enterprises.

Article 6 The State Council, the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and the people's governments at the level of districted city and autonomous prefecture shall respectively set up state-owned assets supervision and administration bodies. The state-owned assets supervision and management bodies shall perform the contributor's duties according to law and supervise and administer the state-owned assets of the enterprises.

The districted cities and autonomous prefectures with relatively few state-owned assets in enterprises may set up no separate state-owned assets supervision and administration bodies upon approval of the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government.

Article 7 The people's governments at various levels shall strictly execute the laws and regulations on the administration of state-owned assets, shall stick to the separation of the

government's function of administration of public affairs and the function as the contributor of state-owned assets, and stick to the separation of government bodies and enterprises and the separation of ownership and management power.

The state-owned assets supervision and administration bodies shall not exercise the government's function of administration of public affairs, and the other bodies and departments of the government shall not perform the duties of the contributor of state-owned assets in enterprises.

Article 8 The state-owned assets supervision and management bodies shall, in accordance with the present Regulations and other relevant laws and administrative regulations, establish and perfect the internal supervision system, and strictly enforce the laws and administrative regulations.

Article 9 In case of war, serious natural disaster, or other major and emergent situations, the state may allocate and dispose of the state-owned assets in enterprises in a unified way according to law.

Article 10 The contributed enterprises and the enterprises invested and established thereby are entitled to the right to autonomy in business operations.

The state-owned assets supervision and management bodies shall support the enterprises to independently carry out business operations according to law, and may not intervene with the production and business activities of the enterprises except for performing the contributor's duties.

Article 11 The contributed enterprises shall strive to improve the economic benefits, and assume the responsibilities to maintain and increase the value of the state-owned assets they operate and manage.

The contributed enterprises shall accept the supervision and administration carried out by the state-owned assets supervision and administration bodies according to law, and may not damage the legitimate rights and interests of the owners of the state-owned assets in enterprises and of other contributors.

## Chapter 2 State-Owned Assets Supervision and Administration Bodies

Article 12 The state-owned assets supervision and administration body under the State Council is the ad hoc body directly affiliated to the State Council that, on behalf of the State Council, performs the contributor's duties and is responsible for the supervision and administration of the state-owned assets in enterprises.

The state-owned assets supervision and administration bodies of the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and the state-owned assets supervision and administration bodies of the people's governments at the level of districted city and autonomous prefecture are the ad hoc bodies directly affiliated to the people's governments that, on behalf of the people's governments at the corresponding levels, perform the contributor's duties and are responsible for the supervision and administration of the state-owned assets in enterprises.

The state-owned assets supervision and administration bodies of the people's governments at the

higher levels shall direct and supervise the work of the state-owned assets supervision and administration bodies of the people's governments at the lower levels..

Article 13 The main duties of a state-owned assets supervision and administration body include:

- 1) Performing the contributor's duties and protecting the owner's rights and interests in accordance with the Company Law of the People's Republic of China and other laws and regulations;
- 2) Directing and promoting the reform and restructuring of the state-owned and state controlling enterprises;
- 3) Dispatching the board of supervisors to the contributed enterprises pursuant to the provisions;
- 4) Appointing and removing, and assessing the principals of the contributed enterprises pursuant to the statutory procedures, and awarding or punishing them according to the assessment results;
- 5) Supervising the value maintaining and increase of the state-owned assets in enterprises through the methods of statistics and auditing etc.; and
- 6) Performing other duties of the contributor and the matters handed over by the people's government at the corresponding level.

The state-owned assets supervision and administration body under the State Council may, apart from executing the duties provided for in the preceding paragraph, set forth the regulations and systems on the supervision and administration of the state-owned assets in enterprises.

Article 14 The main obligations of a state-owned assets supervision and administration body are:

- 1) Promoting the rational flow and optimized allocation of the state-owned assets, and promoting the adjustment of the layout and structure of the state-owned economy;
- 2) Maintaining and increasing the control power and competitiveness of the state-owned sectors that have bearings on the national economic life line and the state security, and improving the overall quality of the state-owned economy;
- 3) Exploring effective systems and methods for operation of the state-owned assets in enterprises, strengthening the supervision and administration of the state-owned assets in enterprises, promoting the value maintaining and increase of the state-owned assets in enterprises, and prevent the state-owned assets in enterprises from erosion;
- 4) Directing and promoting the state-owned and state controlling enterprises to establish the modern enterprise system, to perfect the corporation governance structure, and to promote the modernization of the management;
- 5) Respecting and maintaining the right to autonomy in business operations of the state-owned and state controlling enterprises, safeguarding the legitimate rights and interests of the enterprises, promoting the enterprises to operate and manage the business according to law, and enhancing the competitiveness of the enterprises; and
- 6) Directing and coordinating the difficulties and problems arising from the reform and development of the state-owned and state controlling enterprises.

Article 15 The state-owned assets supervision and administration bodies shall report the work of supervision and administration of the state-owned assets in enterprises, the maintaining and increase of the value of the state-owned assets, and other major matters to the people's governments at the corresponding levels.

### Chapter 3 Administration of the Enterprise Principals

Article 16 The state-owned assets supervision and administration bodies shall establish and perfect the mechanism of selection and the mechanism of incentive and restriction of enterprise principals that meet the requirements of the modern enterprise system.

Article 17 A state-owned assets supervision and administration body shall, according to the relevant provisions, appoint or remove, or suggest the appointment or removal of the enterprise principals of the contributed enterprises:

- 1) Appointing and removing the general manager, vice general manager, general accountant and other enterprise principals of the solely state-owned enterprises;
- 2) Appointing and removing the board chairperson, vice board chairperson and directors of the solely state-owned companies, and suggesting to the companies the appointment and removal of the general manager, vice general manager, and general accountant etc.;
- 3) Naming the selected directors and supervisors dispatched to the state controlling companies according to the articles of incorporation of the companies, recommending the selected board chairperson, vice board chairperson, and the president of the board of supervisors of the state controlling companies, and suggesting the selected general manager, vice general manager, and general accountant; and
- 4) Naming the selected directors and supervisors dispatched to the state holding companies according to the articles of incorporation of the companies.

Where the State Council, the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, and the people's governments at the level of districted city and autonomous prefecture have otherwise provisions on the appointment and removal of the principals of the contributed enterprises, the relevant provisions shall be carried out.

Article 18 The state-owned assets supervision and administration bodies shall establish the system of assessment of the business operation achievements made by the enterprise principals, shall enter into achievement contracts with the appointed enterprise principals, and shall carry out annual and office term assessments of the enterprise principals according to the achievement contracts.

Article 19 The state-owned assets supervision and administration bodies shall, pursuant to the relevant provisions, determine the salaries of the enterprise principals of the solely state-owned enterprises and solely state-owned companies among the contributed enterprises; and shall decide the award and punishment to the enterprise principals dispatched to the contributed enterprises according to the assessment results.

### Chapter 4 Administration of the Major Matters of the Enterprises

Article 20 The state-owned assets supervision and administration bodies shall be responsible for directing the state-owned and state controlling enterprises to establish the modern enterprise

system, for examining and approving the restructuring and stock system reform schemes of the solely state-owned enterprises and solely state-owned companies among the contributed enterprises, and the articles of incorporation of the solely state-owned companies among the contributed enterprises.

Article 21 the state-owned assets supervision and administration bodies shall, pursuant to the statutory procedures, decide the major matters of the solely state-owned enterprises and solely state-owned companies among the contributed enterprises, such as splitting, merger, bankruptcy, dissolution, increase and reduction of capital, issuance of company bonds etc. Among which, the splitting, merger, bankruptcy, and dissolution of important solely state-owned enterprises and solely state-owned companies shall, after examination by the state-owned assets supervision and administration bodies, be subject to the approval of the people's governments at the corresponding levels.

The state-owned assets supervision and administration bodies shall execute the relevant laws and regulations of the state when they, pursuant to the statutory procedures, examine and decide the relevant major matters of the solely state-owned enterprises and solely state-owned companies among the contributed enterprises in the field of national defense science and technology industry.

Article 22 The state-owned assets supervision and administration bodies shall, pursuant to the provisions of the Company Law, dispatch shareholder representatives and directors to take part in the shareholders' conference and the board of directors of the state controlling companies and state holding companies.

Where the shareholders' conference and the board of directors of the state controlling companies and state holding companies decide the major matters of the companies, such as splitting, merger, bankruptcy, dissolution, increase or reduction of capital, issuance of company bonds, and appointment or removal of the enterprise principals etc., the shareholder representatives and directors dispatched by the state-owned assets supervision and administration bodies shall, in accordance with the instructions of the state-owned assets supervision and administration bodies, present the opinions and exercise the voting right.

The shareholder representatives and directors dispatched by the state-owned assets supervision and administration bodies shall report their performance of the duties to the state-owned assets supervision and administration bodies in good time.

Article 23 The state-owned assets supervision and administration bodies shall decide the transfer of state-owned equity of the contributed enterprises. Among which, the transfers of all of the state-owned equity or the transfers of state-owned equity that will result in the state's losing of the controlling position shall be subject to the approval of the people's governments at the corresponding levels.

Article 24 Where the major matters of the important subsidiary enterprises set up by the contributed enterprises need to be reported by the contributed enterprises to the state-owned assets supervision and administration bodies for approval, the administration measures shall be separately set forth by the state-owned assets supervision and administration body under the State

Council and be submitted to the State Council for approval.

Article 25 The state-owned assets supervision and administration bodies shall, pursuant to the relevant provisions of the state, organize and coordinate the annexation and bankruptcy of the solely state-owned enterprises and solely state-owned companies among the contributed enterprises, and shall cooperate with the relevant enterprises in the resettlement of the laid-off workers of the enterprises etc.

Article 26 The state-owned assets supervision and administration bodies shall, pursuant to the relevant provisions of the state, draft the guiding opinions on the reform of the income distribution system of the contributed enterprises, and adjust and control the overall level of the salary distribution of the contributed enterprises.

Article 27 The solely state-owned enterprises and solely state-owned companies among the contributed enterprises may, upon approval of the State Council, enjoy the rights provided for in Article 12 of the Company Law as the investment companies and controlling companies prescribed by the State Council; and may enjoy the rights provided for in Article 20 of the Company Law as the institutions invested with authorization of the state.

Article 28 The state-owned assets supervision and administration bodies may authorize the solely state-owned enterprises and solely state-owned companies among contributed enterprises that have the necessary conditions to operate state-owned assets.

The authorized solely state-owned enterprises and solely state-owned companies shall operate, manage and supervise the state-owned assets formed through the state investment made to the enterprises solely funded by them or in which they take the controlling position or hold shares.

Article 29 The authorized solely state-owned enterprises and solely state-owned companies shall establish and perfect the normative modern enterprise system, and assume the responsibilities to maintain and increase the value of the state-owned assets in enterprises.

#### Chapter 5 Administration of the State-Owned Assets in Enterprises

Article 30 The state-owned assets supervision and administration bodies shall, pursuant to the relevant provisions of the state, be responsible for the basic administration of the state-owned assets in enterprises, such as the determination of the property rights, registration of the property rights, regulation of the assets evaluation, clearing and verification of the assets, statistics of the assets, and comprehensive appraisal etc.

The state-owned assets supervision and administration bodies shall coordinate the disputes between the contributed enterprises over the property rights of the state-owned assets in enterprises.

Article 31 The state-owned assets supervision and administration bodies shall establish the system of supervision and administration of the transaction of property rights to the state-owned assets in enterprises, strengthen the supervision and administration of the transactions of the

property rights to the state-owned assets in enterprises, promote the rational flow of the state-owned assets in enterprises, and prevent the state-owned assets in enterprises from erosion.

Article 32 The state-owned assets supervision and administration bodies shall perform according to law the contributor's duties with respect to the proceeds of the state-owned assets in the contributed enterprises; and shall perform the contributor's duties with respect to major investment and financing planning, development strategies and planning of the contributed enterprises in accordance with the state development planning and industrial policies.

Article 33 Where the disposition of the major assets of the solely state-owned enterprises and solely state-owned companies among the contributed enterprises need to be approved by the state-owned assets supervision and administration bodies, the relevant provisions shall be executed.

#### Chapter 6 Supervision of the State-Owned Assets in Enterprises

Article 34 The state-owned assets supervision and administration body under the State Council shall, on behalf of the State Council, dispatch the board of supervisors to the solely state-owned enterprises and solely state-owned companies among the contributed enterprises. The composition, authorities, and conduct rules etc. of the board of supervisors shall comply with the Interim Regulations on the Board of Supervisors of State-Owned Enterprises.

The state-owned assets supervision and administration bodies of the local people's government shall, on behalf of the people's governments at the corresponding level, dispatch the board of supervisors to the solely state-owned enterprises and solely state-owned companies among the contributed enterprises, by referring to the Interim Regulations on the Board of Supervisors of State-Owned Enterprises.

Article 35 The state-owned assets supervision and administration bodies shall, according to law, supervise the financial status of the contributed enterprises, establish and perfect the indicator system for maintaining and increase of the value of the state-owned assets, and maintain the rights and interests of the contributors of the state-owned assets.

Article 36 The state-owned and state controlling enterprises shall strengthen the internal supervision and risk control, and shall establish the systems of finance, auditing, in-house counsel, and employees' democratic supervision etc. pursuant to the relevant provisions of the state.

Article 37 The solely state-owned enterprises and solely state-owned companies among the contributed enterprises shall, pursuant to the provisions and in fixed terms, report to the state-owned assets supervision and administration bodies their financial status, production and operation status, and the maintaining and increase of the value of the state-owned assets.

#### Chapter 7 Legal Liabilities

Article 38 Where any state-owned assets supervision and administration body appoints or removes, or suggests the appointment or removal of the principals of the contributed enterprises in violation of the relevant provisions, or intervenes with the production and business operations of the contributed enterprises, infringes upon their legitimate rights and interests, and causes loss of or other serious consequences to the state-owned assets in enterprises in violation of the law, the personnel directly in charge and other directly responsible personnel shall be given administrative sanctions according to law; and the criminal liabilities shall be investigated for if a crime is constituted.

Article 39 Where any solely state-owned enterprise or solely state-owned company among the contributed enterprises fails to report to the state-owned assets supervision and administration body the financial status, production and business operations, and the maintaining and increase of the value of the state-owned assets pursuant to the provisions, it shall be given a warning; where the circumstances are serious, the personnel directly in charge and other directly responsible personnel shall be given disciplinary sanctions according to law.

Article 40 Where any enterprise principal of the state-owned or state controlling enterprise abuses the powers, neglects the duties, and causes loss of the state-owned assets in enterprise, that person shall be liable for the compensation and be given disciplinary sanctions according to law; and the criminal liabilities shall be investigated for if a crime is constituted.

Article 41 An enterprise principal of the state-owned or state controlling enterprise that is liable for the loss of state-owned assets and has been given the disciplinary sanction heavier than dismissal from the post may not assume the enterprise principal of any state-owned or state controlling enterprise within 5 years; and one that has caused gross loss of the state-owned assets of the enterprise or has been given criminal punishment may not assume the enterprise principal of any state-owned or state controlling enterprise throughout his/her life.

#### Chapter 8 Supplementary Provisions

Article 42 The organizational form, structures, rights and obligations of the state-owned, state controlling and state holding enterprises shall comply with the Company Law of the People's Republic of China and other laws, administrative regulations, and the present Regulations.

Article 43 The construction of the basic-level organization of the Communist Party of China and the construction of the socialist spiritual civilization in the state-owned, state controlling and state holding enterprises shall be carried out in accordance with the Articles of Association of the Communist Party of China and the relevant provisions.

The organization of trade unions in the state-owned, state controlling and state holding enterprises shall be carried out in accordance with the relevant provisions of the Trade Union Law of the People's Republic of China and the Articles of Association of the Trade Union of China.

Article 44 The state-owned assets supervision and administration body under the State Council,

and the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government may formulate the implementation measures in accordance with the present Regulations.

Article 45 Where any administrative regulations relating to the supervision and administration of the state-owned assets in enterprises conflict with the present Regulations, the latter shall prevail.

Article 46 The entities that have not separated the government bodies from the enterprises shall, pursuant to the provisions of the State Council, accelerate the reform and realize the separation of government bodies and enterprises. With respect to the enterprises separated from government bodies, the state-owned assets supervision and administration bodies shall perform the contributor's duties, and carry out supervision and administration of the state-owned assets in enterprises.

Article 47 The present Regulations shall be implemented as of the day of promulgation.